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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,938	09/28/2000	Jeffery A. Livesay	4969.02	7604

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EXAMINER

GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/672,938

Applicant(s)

LIVESAY, JEFFERY A. 

Examiner

Elaine Gort

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-172 is/are pending in the application.  
4a) Of the above claim(s) 1-109 and 122-163 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 110-121 and 164-172 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims 1-109 and 122-163 which are drawn to an invention nonelected with traverse in Paper No. 8. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 110-121 and 164-172 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear in claims 110, 116 and 164 what is being claimed in regard to "the at least one request comprising information derived from the at least one or more parameters, the information comprising at least one datum not among the at least one or more parameters". It is unclear how the information is derived from, but not among the parameters.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. **Claims 110-121 and 164-172 are rejected under 35 U.S.C. 102(a) as being anticipated by Primavera and PurchasePro.com (Business Wire, 9/21/99, p. 203).**

Primavera and PurchasePro.com disclose the claimed computer readable medium containing instructions for facilitating the matching of buyers and sellers for goods/services specified for a project. Primavera and PurchasePro.com disclose a website with computer readable medium capable of defining/identifying a project with parameters (such as performance specifications); converting the parameters into a request for goods/services needed to complete the project (specifications/RFQs/RFPs

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are presented to sellers which include the buyers performance specifications); where the request is utilized by a buyer to communicate the parameters for the project to at least one seller providing the goods/services needed for the project (such as when the system connects buyers and sellers); the request is communicated to a seller; prepares a response by a seller based on the request for goods/services (such as preparing a contractor's bid for conveyance to the buyer); communicates a response to the buyer from a seller as an offer to provide the buyer with the goods/services requested (such as when system conveys bids to buyers); where the request identifies at least one goods/services specified for a project defined in terms of at least one parameter (such as buyer's request includes project specifications); and where acceptance of the response by the buyer, a contract for the goods/services specified in the response is formed between the buyer and the seller.

Regarding the information being derived from the parameters but not among the parameters Examiner contends that data is generated regarding the order which the buyer has not specifically entered but are derived from the order. Examples would include information such as the time and date the order was placed, the derivation of suppliers that could meet the requirements of the order, information regarding the broker, information regarding financing and approval of financing.

**6. Claims 110-121 and 164-172 are rejected under 35 U.S.C. 102(e) as being anticipated by Huberman (US Patent 5,826,244).**

Huberman discloses the claimed computer readable medium containing instructions for facilitating the matching of buyers and sellers for goods/services specified for a project. Huberman discloses a website with computer readable medium capable of defining/identifying a project with parameters (for example specifications relating to the printing of an annual report); converting the parameters into a request for goods/services needed to complete the project (specifications are presented to sellers which include the buyers performance specifications); where the request is utilized by a buyer to communicate the parameters for the project to at least one seller providing the goods/services needed for the project (such as when the system connects buyers and sellers); the request is communicated to a seller; prepares a response by a seller based on the request for goods/services (such as when bids are prepared by sellers); communicates a response to the buyer from a seller as an offer to provide the buyer with the goods/services requested (such as when system conveys bid information to buyers); where the request identifies at least one goods/services specified for a project defined in terms of at least one parameter (such as buyer's request includes project specifications); and whereupon acceptance of the response by the buyer, a contract for the goods/services specified in the response is formed between the buyer and the seller (such as when the customer accepts the transaction).

Regarding the information being derived from the parameters but not among the parameters Examiner contends that data is generated regarding the order which the

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buyer has not specifically entered but are derived from the order. Examples would include information such as the time and date the order was placed, the derivation of suppliers that could meet the requirements of the order, information regarding the broker, information regarding financing and approval of financing.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 110-121 and 164-172 have been considered but are moot in view of the new ground(s) of rejection. See details above for clarification.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

  
Elaine Gort  
Examiner  
Art Unit 3627

 9/7/04  
ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

September 5, 2004